IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O. O. C. J.

WRIT PETITION NO.595 OF 2005

M. K. N. Bhatia School Trust & Anr. ...Petitioners.
Vs.
Municipal Corporation for Greater Mumbai & Ors. ...Respondents.
....
Mr. Shaikh Nasir Masih for the Petitioners.
Mrs.A. R. Joshi for Respondent No.1 and 2.
Mr. M.P. Vashi for Respondent No.3.
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CORAM : DR.D.Y.CHANDRACHUD, J.

March 21, 2005.

P.C.:

The Third Respondent was appointed as an Assistant Teacher on 13th June 1997. It is not disputed that the Third Respondent is duly qualified. She was confirmed in service on 14th June 2000. The services of the Third Respondent were discontinued, rather summarily, on 30th June 2003 without any enquiry and without recourse to due process of law. There is no charge of misconduct of any nature against the Third Respondent. The only ground on which the Third Respondent was sought to be removed was that when the school was being conferred with

recognition by the Education Department of the Municipal Corporation, it was found that the Third Respondent had been over age when she was appointed. The Additional Municipal Commissioner while confirming the order of the Education Officer has noted that the management instead of submitting an application for condoning the 'overage', abruptly discontinued the services of the Third Respondent. Even before this Court, Counsel appearing on behalf of the Municipal Corporation has placed on the record a circular dated 18th March 1998 under which powers have been given to the competent authorities within the Municipal Corporation for condoning over age. The view taken by the Education Officer and by the Additional Municipal Commissioner in appeal cannot be faulted. The Third Respondent was a confirmed employee and there was absolutely no ground for removing her summarily from service particularly when the condonation of age at the time of initial appointment could be duly relaxed by the Municipal Corporation under the prevalent circular. The inspection report dated 26th March 2003 (Exh.G-1) only noted that the Third Respondent was 'overage'. There was no direction to the management to remove the Third Respondent. Counsel appearing

on behalf of the Municipal Corporation states that within a period of four weeks of the Petitioners submitting an application to the Municipal Corporation for condoning the age of the Third Respondent, the Education Officer shall take necessary steps sympathetically and in accordance with law. The Petitioners are directed to submit an application within a period of two weeks from today. The application to be submitted by the Petitioners will be duly considered by the competent authority in the Municipal Corporation and final orders thereupon shall be passed within a period of four weeks of the receipt of the application. In the event that the Municipal Corporation agrees to condone the condition of age, the Third Respondent shall stand reinstated within a period of two weeks thereafter in compliance with the orders passed by the Additional Municipal Commissioner.

The petition is accordingly disposed of in the aforesaid terms.

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